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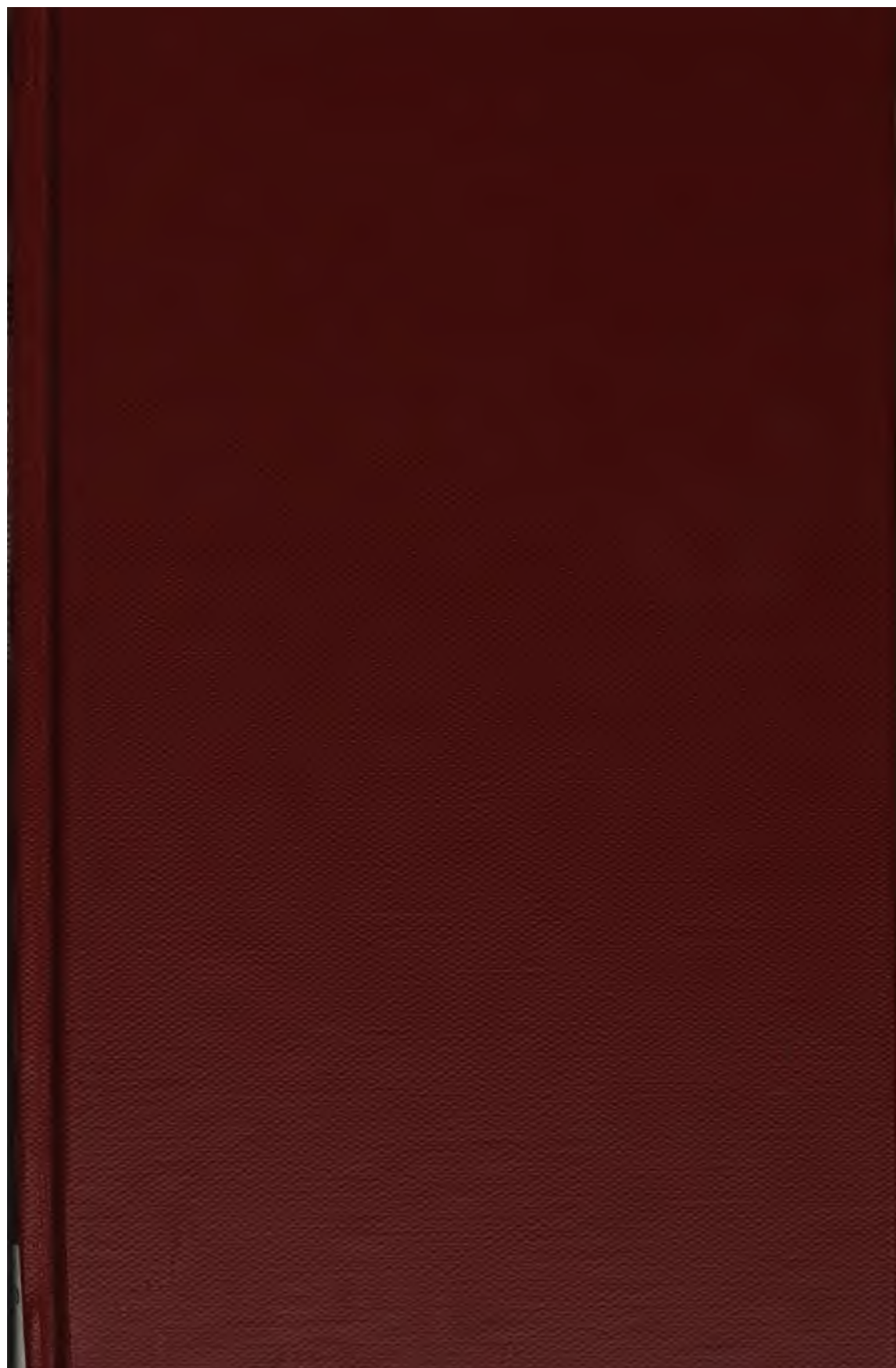
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# REMARKS

ON

CHANGES LATELY PROPOSED OR ADOPTED,

IN

HARVARD UNIVERSITY.

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BY GEORGE TICKNOR,

SMITH PROFESSOR, &c.

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To prevent any misapprehension of the object of the following Remarks, it may be necessary to premise, that they were originally prepared for a different mode of publication, and that they are now printed without alteration, except the change of the first person plural to the first person singular ; and the addition of the notes marked A. and B., which are placed by themselves, at the end.

The Author hopes, also, that he may be indulged in the further observation, that the changes which he has here endeavoured to explain and defend, no otherwise affect his own relations to Harvard College, than as they increase his own labours.

*September 23, 1825.*

## REMARKS.

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THE age in which we live has been appropriately called the age of improvement ; and certainly, among the demands made by its peculiar spirit, none has been more constant, more extensive, or more earnest, than the demand, in this country, for an improved state of education. It has been felt among us on every side, and in almost every form ; in the humblest primary instruction given by charity ; in the large public resorts, where our youth are fitted for the more laborious occupations of life ; in our colleges ; and in the schools through which the professions are to be entered by those, who hope to attain to much eminence in them. In all, the standard has been greatly raised, and is still rapidly rising, without, perhaps, in any, meeting entirely the wants and hopes of the community. For the generation, on whom now rest the cares of life among us, feel very sensibly, how much more lightly their burthen could be borne, if they had more of that knowledge, which is, indeed, power everywhere, but nowhere so truly and entirely, as in the midst of free institutions ; so that there is, at this moment, hardly a father in our country, who does not count among his chief anxieties, and most earnest hopes, the desire to give his children a better education, than he has been able to obtain for himself.

It is natural, and indeed wise, that this stirring spirit should have made very plain and loud demands, on what may be considered the high places of knowledge among us ; and it was, perhaps, inevitable, that these demands should first be made in a distinct and definite shape on Harvard College. For Harvard College is one of a very few institutions in our land, that are beginning to be venerable for age and respectable in resources. It is, indeed, the oldest of

our greater public schools ; it is the most amply endowed ; it has, by far, the largest number of teachers ; and its collections, libraries, and apparatus, though still very incomplete, are yet, when taken together, more complete than those of any similar establishment in the country. In consequence of this, and in consequence of a general persuasion, that this ancient establishment has not fulfilled the expectations and claims, which its increased means have excited, important discussions have been carried on for some years back by those to whose management its affairs are entrusted, concerning its organisation, discipline, and instruction, in the hope of fitting it better to the increased and increasing demands of the community.

The discussions brought out by this state of feeling and opinion, have laid before the public the means and management of this college more fully than, from official sources, the means and management of any college in the country had been known before. An indistinct persuasion had, indeed, long prevailed, that it did not keep pace with the spirit of the times, and that a considerable portion of its means was not brought into efficient operation ; but the exaggerated fears and statements, to which this uncertainty gave rise, are now removed, and from the authentic sources, which are become accessible to all, the following may be easily distinguished as among the principal grounds for the anxiety, which prevailed in regard to its existing condition ; and may serve, at the same time, as a warning to most of the other colleges in our country, which, in proportion to their respective ages and means, are advancing with the same system and the same usages to similar results.

In the *first* place, the time really appropriated to study, and provided with means of instruction, is found to have been too small, owing to the great amount of vacations and holidays. From the answer of the immediate government to the fifteenth question of the committee of the Overseers, printed with the report of that committee January 6, 1825, it appears, that the average amount of time not provided with instruction, during the four years of college life, was twenty weeks and two days annually.\* This made something more

\* Namely, vacation from Commencement, four weeks and two days ; vacation in the winter, seven weeks ; vacation in May, two weeks ; Seniors' vacation before Commencement, averaged among the four years, one week

than two fifths of all the time passed at college, or above four months and a half annually, *inevitable* vacation, during which the very system itself did not pretend to provide the means of education for the young men sent to avail themselves of it. Every parent, who understood this, felt at once, that he was running a great risk, and suffering an irreparable loss, by giving up so much of his child's time to authorised idleness ; at a period of life too, when time has no price, and when constant occupation is the truest and safest moral discipline for the character. And yet, if we look through the country, we shall find, with the exception of the University of Virginia, and perhaps one or two other places, that there is not a single college, which does not give nearly or quite as much time to holidays and vacations, as Cambridge did.

In the *next* place, even during the time appropriated to study, and regularly filled with recitations, the modes of instruction are found to have been imperfect, compared with the means, from which they were furnished. The whole system of instruction has, heretofore, rested on the alphabetical arrangement of the four classes ; as if a young man's talent and character depended on the letter with which his name happens to begin. This was a radical and capital defect. The attempt to force together sixty or eighty young men, many of whom have nothing, or almost nothing, in common ; who are of very unequal ages, talents, attainments, habits, and characters ; and to compel them to advance *pari passu* during four of the most active and valuable years of life, giving to the most industrious and intelligent no more and no other lessons, than to the most dull and idle, is a thing that is unknown to the practical arrangements for education in other countries ; that is not attempted in ours either before or after the period of college life ; and that has been practised at college only from adherence to an ancient arrangement, long after the motives for that arrangement had ceased to exist. For though it might be inevitable in the

five days ; two days at the beginning of each term, six days ; four days before Commencement ; four days at Thanksgiving ; Fast day ; three Exhibitions, four Examinations, Artillery Election, and Fourth of July, two thirds of each day being unprovided with exercises, make six days ; and Saturday afternoons during thirty-two weeks, are two weeks and two days ;—in all, twenty weeks and two days.

earliest period of the establishment at Cambridge, when there were fewer tutors than classes, and was, probably, less injurious in its operation, while the classes were quite small, and the instruction of their members by a general average not so likely of course to be an injustice to the best of them ; yet, after the whole of this state of things was reversed, after the number of instructors was increased, till it amounted to four or five for each class, and the number of students to be taught together had risen to sixty or eighty, and a general average was necessarily become a great neglect and injustice to the most active and able, all ground for continuing the system of instruction on the old alphabetical and arbitrary arrangement of the classes failed. This arrangement, however, exists, in nearly all our colleges, and was continued at Cambridge from one period to another, partly from ancient usage and habit, and partly because it was not thought easy to alter what had been so long established.

But, supposing the alphabetical arrangement to have been inevitable, still the modes of instruction pursued under it were less perfect than could have been attained, with the means at the disposition of the college. The *recitations*, as it appears by the answer of the immediate government to the fifth question of the committee of the Overseers, were held by the greater part of the instructors with a whole class present, amounting, perhaps, to sixty ; by a part of the instructors with divisions consisting of half a class ; and by another part with sections consisting of a quarter of a class ; all collected, of course, according to the alphabet. The length of each exercise averaged about three quarters of an hour, and no student attended more than three on any one day during the thirtyfour weeks when they were provided, and could not average so much even as that.

The consequences of such a state of things are apparent. Nothing could be undertaken with an arrangement so inadequate, except a hurried examination of the students in certain books, which they were required to read. The result was, that they learnt a given *book*, rather than a given *subject* ; they learnt Locke or Brown, rather than metaphysics, and Horace rather than Latin ; for the instructors had no time to do more, than examine four or five minutes daily each student, that came into their presence, and often were

unable to do even that with every individual ; so that the amount of personal attention received by any student, on an average, from his instructors at college, would be thought insufficient for the instruction of children in the humblest primary or charity school, where only the rudest elements of education are attempted. Indeed, the great principle of *teaching* was lost sight of, and that of an imperfect and dry examination was substituted from the necessity of the case. The mind of the instructor was not made to act, as it ought to do, directly on the minds of his pupils in familiar explanation and illustration ; and the best purpose of education, therefore, the purpose of exciting intellectual activity and creating intellectual habits, was, in the recitations, overlooked at Cambridge, and is still overlooked in most or all the other colleges of our country.

Nor were the *Lectures* on a better footing, than the *Recitations*. They were attended by whole classes, whether the individual members were prepared for such instruction or not ; no notes were required to be taken ; and a law passed a few years since, requiring examinations, was not executed. The *Lectures* were simply read, and then the students were dismissed. Professor Jardine of Glasgow,—who taught three hours a day till he was nearly ninety years old, and made a reform there, for which Mr. Campbell, in his late letter on the University of London, has paid him a beautiful tribute of well earned praise,—Professor Jardine says, after an experience of above half a century in different modes of instruction, that ‘there certainly never was a wilder scheme devised by the perverted ingenuity of man, than that of attempting to improve the minds of youth, and create intellectual habits, by the sole means of reading a lecture, without farther intercourse between teacher and pupil.’ We have no doubt the whole force of this remark applies to the *Lectures*, which are generally delivered to the undergraduates at our Colleges. They may be ever so able and well written ; they may be ever so learned and eloquent ; but, on the present system, they are a waste of the time both of the hearers and the instructors.

In the *third* place, it is now rendered evident, that the apparatus and funds of the University at Cambridge, may be made to do more than has yet been effected. We have, with the Report of the Committee of the Overseers, made Jan.

6, 1825, the Treasurer's account of income, salaries, and other expenditures on the one side, and on the other, an account of the duties and employments of the officers, given by the immediate Government, in their answer to question seventh. From these official documents we obtain the following remarkable result. Four officers, the aggregate of whose salaries was \$4300, gave the students in College two thousand three hundred and sixtyfour exercises annually; exercises, too, which are as laborious, important, and valuable, as any given; while eleven other instructors, the aggregate of whose salaries was \$14,382 76, gave the same students only eight hundred and twentyfour exercises annually;\* a number less than is often given by a single professor of the first rank and ability, to his classes in Europe, and much less difficult and laborious, than the exercises, which these distinguished men continue even to a great old age, amidst the toil and excitement of composing works, that fill the lettered world with their fame.

I am aware, that it would be impossible, perhaps not desirable, in a College like Cambridge, exactly to apportion the salaries and duties of the different instructors, so that all should stand on a perfect equality. I am aware, that the provisions of some of the statutes of the founders, may not leave it within the power of any body of men in the state, to determine what shall be the duties of some of the Professors at Cambridge. But there was certainly no sort of ground for the above disproportion. Almost three quarters of the instruction, given to undergraduates, was purchased for one third of the sum paid for the remaining quarter. Such facts need no comment or discussion. It is clear that the College at Cambridge may be made much more effectual for the instruction of the community, than it has been heretofore, and I doubt not if similar inquiries were made, respecting some other colleges, a result, at least resembling this, and tending the same way, would be obtained.

Another ground of dissatisfaction concerning Cambridge College, and one which exists in a greater or less degree, concerning other establishments of the same kind in our

\* This calculation excludes the Medical Professors, the College Law Professor, and the Dexter Professor; because they chiefly or entirely instruct graduates. If the fixed salaries of those of them, who lecture to undergraduates, were included, the disproportion would be still greater.

country, is the nature and effect of the two punishments most frequently resorted to, in order to maintain good discipline. I refer to fines and suspensions. By the answer of the immediate Government to question twentyfirst, it appears, that the fines received during the last seventeen years, have amounted to \$11,392, and consequently that the annual average of fines has been about \$670. This is a large sum, certainly, but the most unpleasant circumstance about it is, that such fines do little or no good at any College. They were assessed at Cambridge almost entirely for negligence of different kinds, and in such a way, that they were hardly felt as a punishment. A few of them, as ordered by the laws, were heavy, like that of ten dollars for going to the theatre, and eight dollars for making any festive entertainment; but such fines were rarely imposed, and by far the greater part of this ungracious branch of revenue was derived from the assessment of thirtythree cents for absence from a lecture or recitation; three cents for tardiness; three cents for absence from prayers, two cents for tardiness, and similar petty expedients. From their very nature, therefore, the fines were little regarded; and as far as they were noticed at all, they had the unfortunate air of seeming to be compensations for moral offences, rather than punishments; and fell on the parent at a remote time, instead of falling at once on the offender himself.

The punishment of suspension, too, seems to have proved no less unsuitable and inefficient. In the course of seventeen years, we are told by the immediate Government, that suspension was resorted to one hundred and eightysix times. Now the young men suspended were generally sent to clergymen or other persons living in small towns in the interior, where the means, apparatus, and excitements for study, applied in Cambridge, were wanting; where they could not have suitable instructors or instruction, in the different branches they were required to pursue, and where they were generally beset by the temptations to a small village dissipation, which often sent them back to Cambridge less fitted for progress in their studies than when they went away.

Indeed the whole system of discipline seems to have been unsuccessful, chiefly, perhaps, because so much idle time was left on the hands of the students, and because so much more was done in the way of *punishment* than in the way



of *prevention*. By the twentyfirst answer of the immediate Government, we are told, that in the course of the seventeen years ending in 1824, the whole number of students expelled, rusticated, dismissed, and suspended, was three hundred and fiftyfour. Now, if we assume, that in the same time fourteen hundred persons were admitted to College, which is probably an over estimate, it will give an average of one of the higher and more disgraceful censures to every fourth student. But the same student was, no doubt, sometimes punished twice, or perhaps thrice, and I have reason to think, that just about one fifth of all, who have entered College, have been for many years disgraced by a severe punishment before they left it. This, however, is a great disproportion; especially when it is considered that the number punished necessarily falls short of the number deserving punishment; and it proves plainly, that great and radical defects have existed at Cambridge, and satisfied the best friends of the College, that great and thorough remedies must be applied; especially the natural and obvious remedy of diminishing the amount of authorised idleness.

There have been other grounds of anxiety concerning Harvard College, which have been deeply felt by its friends, and which arise from the system it shares with the other Colleges of the country, or from its peculiar circumstances; but there is not now time to notice them. The immediate Government or Faculty, acting as an executive body, has proved from its numbers, which have varied from ten to thirteen, cumbrous, troublesome, and inefficient. The silent permission, granted by usage, but contrary to law, for all the students to leave Cambridge when they please, provided they are present at their exercises, or will submit to be punished for absence from them, has been injurious to their characters, from the neighbourhood of the College to a considerable city. And the annual examinations of the classes deserve, and have long deserved, in Cambridge and all our Colleges, no other name than that bestowed on them by Professor Norton, who calls them 'a nugatory show.' These have all been occasions for anxiety, not because the students from Cambridge College have come forth worse educated than the students from other similar institutions,—for the whole country will bear witness to the contrary,—but, because the defects just pointed out from official sources were

inherent in its system, and in the system of nearly or quite all our Colleges ; because they were growing with the growth and hardening with the age of the establishment at Cambridge ; and because they were obviously preventing a considerable proportion of its means from being applied to the proper use of the community, and to raise the standard of education and character among us.

When the state of things just described, became even partially known, and long before the publication of the documents, which now fully explain it, there was a general desire expressed by the friends of the College, that large changes should be effected in its modes of discipline and instruction. Some arrangements were making to accomplish these changes ; but before they were completed, a new mode of reform was proposed, by which the powers of government and of change would be transferred to other hands, and which, therefore, it is necessary first to notice, as having precedence in the order of subjects.

The management of the College at Cambridge has been heretofore in the hands of three bodies of men, who hold their authority under an act of the General Court, passed in 1642 ; a charter given in 1650, with an appendix, dated in 1657 ; the fifth chapter of the Constitution of the Commonwealth, made in 1780, and revised but not altered in relation to the College, in 1821 ; and an act passed in February, 1814, by the Legislature of the Commonwealth.

The first of the bodies, who under the provisions of these acts, or by powers mediately derived from them, have had the management of the College, is, the Faculty or immediate Government, consisting of the President, and a part of the resident Instructors, amounting in all to from ten to thirteen persons, who have the entire discipline of the students in their hands, and have been obliged to meet together as an executive body, to decide on every punishment above a small fine ; a body, which, both in Cambridge and in other Colleges, is, too large for the prompt, consistent, and efficient discipline of such a collection of young men.

Over the Faculty is, the Corporation, which derives its powers from the charter of 1650, the appendix of 1657, and the Constitution of 1780, and consists of the President, the Treasurer, and five 'Fellows' as they are technically called ; and of the gentlemen who now compose that body, three,

namely, Mr. W. Prescott, Judge Jackson, and the Rev. W. E. Channing, reside in Boston; one, Mr. Justice Story, resides in Salem; and one, Rev. E. Porter, resides in Roxbury. The Corporation have the management of the funds and revenues of the College; appoint its Instructors and other officers, and assign them their duties and pay; make laws for the government of the instructors and the students; and fill vacancies in their own body; but are restricted in their powers, and can do almost nothing without the expressed assent of the Overseers.

The Overseers are the last and highest body for the government of the College. They hold their power by virtue of the act of 1642, the Constitution of 1780, and the statute of 1814, and consist of the Governor of the Commonwealth, the Lieutenant Governor, the Council, the Senate, with their President, and the Speaker of the House of Representatives; in all fiftythree persons; together with the President of the College, and fifteen laymen and fifteen clergymen, elected, and to be elected, from the community at large, by the whole board; so that out of eightyfour members of the upper board for the government of the College, fiftythree are annually elected by the people, and, therefore, completely and truly represent the public interest in the institution.

The change it was proposed to effect in this organization, was to cause the Corporation, which now contains six non-resident members, than whom no more distinguished names can be found in the community to which they belong, to consist hereafter of resident Professors and Tutors, engaged in the instruction of the College, and receiving pay from its funds. For this purpose, on the second of April, 1824, eleven of the resident teachers, viz. five Professors engaged in the instruction of undergraduates, two engaged in the instruction of graduates, and four Tutors, offered a memorial to the corporation, preferring, as matter of CHARTERED RIGHT, the claim of the resident instructors to be elected to vacancies in the board of the President and Fellows of the College. To this memorial the Corporation returned no formal answer, on the ground, as has been stated by the memorialists, that if the claim were well founded, the members of the Corporation to whom it was sent, not being rightfully 'Fellows' of the College, were not competent to perform any act in its government; and could only resign their seats. On the first

of June, nine of the same memorialists presented the same claim and memorial to the Overseers, giving as one reason for presenting it at that particular juncture, that they understood the Overseers were then engaged in considering important measures relative to the organization of the College. This memorial was by the Overseers referred to a committee, and so the matter rested for some months.

The charter of 1650, under which chiefly the Corporation hold their powers, and the memorialists make their claim,\* is construed as imposing the obligation of residence, and some other qualifications hereafter to be noticed, by the application to the members of the Corporation, of the term *Fellow*. This term was first used at Harvard College, as far as can now be ascertained, about the year 1647, three years before the charter was granted, and seems then, as the report of the Overseers explains it, to have denoted a person, chosen from among the graduates, who should give instruc-

\* The part of the charter that has been considered as touching this question, is as follows.

‘Whereas, through the good hand of God, many well devoted persons have been and daily are moved, and stirred up, to give and bestow, sundry gifts, legacies, lands, and revenues, for the advancement of all good literature, arts and sciences, in Harvard College, in Cambridge, in the County of Middlesex, and to the maintenance of the President and Fellows, and for all accommodations of buildings, and all other necessary provisions, that may conduce to the education of the English and Indian youth of this country, in knowledge and godliness;

‘It is therefore ordered and enacted by this Court, and the authority thereof, that for the furthering of so good a work, and for the purposes aforesaid, from henceforth, that the said College in Cambridge, in Middlesex, in New England, shall be a corporation, consisting of seven persons, viz. a President, five Fellows, and a Treasurer or Bursar; and that Henry Dunster shall be the first President, Samuel Mather, Samuel Danforth, Masters of Art, Jonathan Mitchell, Comfort Starr, and Samuel Eaton, Bachelors of Art, shall be the five Fellows, and Thomas Danforth to be present Treasurer, all of them being inhabitants in the Bay, and shall be the first seven persons of which the said corporation shall consist; and that the said seven persons or the greater number of them, procuring the presence of the Overseers [rendered unnecessary by the appendix of 1657,] of the College, and by their counsel and consent, shall have power, and are hereby authorised, at any time or times, to elect a new President, Fellows, or Treasurer, so oft and from time to time, as any of the said person or persons shall die or be removed, which said President and Fellows, for the time being, shall forever hereafter, in name and in fact, be one body politic and corporate in law to all intents and purposes; and shall have perpetual succession; and shall be called by the name of President and Fellows of Harvard College, and shall from time to time be eligible as aforesaid.’

Then follows the power to hold real estate, be sued, and have a common seal, with the other powers necessary to constitute a corporation for such purposes; but nothing, I believe, that has been cited in the question of the qualifications of Fellows.

tion to the students committed to his care, and receive a stipend; but by an entry of the 6th of May, 1650, it is apparent that there were already Fellows, who were not Tutors; and by a letter of Edward Randolph, dated in 1676, it is apparent, that there were Fellows who were not members of the Corporation. There were Fellows, therefore, before the year 1650, who had no corporate rights whatsoever, and there were Fellows, after 1650, who had stipends and gave instruction, but yet did not become members of the Corporation under the charter then granted. These are the Fellows, who, in the loose language of the early and imperfect records, or the votes and orders of the General Court, for the first fifty years of the existence of the College, are called 'Fellows of the College,' 'Fellows on the place,' 'resident Fellows,' or as in Robert Keyne's bequest in 1653, which was for the benefit of the '*poorer sort* of Fellows,' and the Penoyer fund given in 1670, for 'two *Fellows* and two scholars, who should be *educated, brought up* and maintained' by it;—all of which it is plain refer to a sort of beneficiaries and dependents on the College, who were; no doubt, eligible to the Corporation, like any other citizens; but who were, by no means, *ex vi termini*, members of the Corporation under the charter of 1650. Indeed, the very number of these Fellows was uncertain, though the charter of 1650 had settled the exact number of corporate Fellows; for by an order of the General Court of 1653, we find a committee raised among other things 'to consider what *number* of Fellows may be necessary for carrying on the work of the College, and what yearly allowance they shall have and how to be paid.'

But certain persons were named (Fellows of Harvard College) by the charter of 1650, and, as will be seen by reference to the document, designated neither as residents in Cambridge, nor as Tutors; but simply as 'inhabitants in the Bay,' and without any sort of restriction upon them as to the qualifications of their successors through all future time. That *any one* of these five persons named as Fellows in the charter, was a resident and a tutor at the time it was granted, is not certain. It is *probable*, however, that one or two of them were. It is *incredible* that all five were, because the whole number of students was only about thirty, and the College was so very poor at that time, that it cannot rea-

sonably be supposed five teachers were added to the President. From 1650 till 1672, I am not aware, that any means exist for ascertaining who were members of the Corporation. But in 1672, a new charter was offered, and a new series of persons named as 'Fellows.' Where all of them resided, or what were their occupations, cannot now be known; but three of them were settled clergymen, and one of them, Samuel Danforth, who alone is described by the addition of 'a Fellow of the College,' was the only person then living who had been named in the former charter, and he was then, and had been from 1650, the minister of the Church in Roxbury.\*

From 1673, the records furnish means for tracing regularly the series of Fellows; that is, from within twentythree years of the date of the charter; and from that time until

\* There has been some discussion about the case of Samuel Danforth, and, therefore, it may be well to state the facts in it.

'May 12, 1650,' say the records of the Church in Roxbury, 'Samuel Danforth recommended and dismissed from Cambridge Church, and admitted here;' a change for which no good reason can be given but a change of residence, for it did not qualify him to administer the ordinances, which he could not do till he became a clergyman in the following September.

May 31, 1650, the College charter was granted.

Sept. 24, 1650. S. Danforth was ordained at Roxbury.

Oct. 8, 1672. Mr Danforth is described in the charter proposed to the College, as 'Samuel Danforth, Fellow of the said College; and the only person so described, as well as the only person whose name occurs in both charters; while Urian Oakes is described in the same charter of 1672, as 'Pastor of the Church of Cambridge,' and Thomas Shepard as 'Teacher of the Church of Charlestown.'

Oct. 19, 1674, in the College records we find, 'this day died Samuel Danforth, Senior Fellow of the College.'

To this state of the case, which will leave no doubt that Samuel Danforth was a member of the corporation from 1650 till his death, though residing in Roxbury, since there is no proof attempted that he resigned;—to this state of the case have been objected the two following circumstances.

First. In Johnson's *Wonder Working Providence*, (Hist. Col. N. S. VII, 29,) it is said of S. Danforth, 'he put forth many almanacs, and is now called to the office of a teaching elder in the Church of Christ at Roxbury, who was one of the Fellows of this College.' This appears to have been written in 1651. But it is easy to see that it refers to the time when Mr Danforth was a resident stipendiary of the College, and meant only that he had left the College; not that he had resigned his place in the corporation.

The other circumstance urged is a letter from Dr Hoar, dated March 27, 1661, (Hist. Col. VI, 103,) speaking of Richardson's Tables, 'I know no way to recover them but of some that were of that society in former times, I suppose Mr Danforth, Mr Mitchell and others have them.' This seems really to have no bearing on the question. It may as well refer to the times when these persons were undergraduates, as to any other.

Both the passages cited are evidently written loosely, and such language cannot affect the plain statements contained in records and charters.

the present, there have never been less than two nonresident Fellows ; a large portion of these one hundred and fiftythree years, there has been a majority of nonresidents ; and during twentyseven years of it, all have been nonresidents. It may be doubted, whether, on the score of mere usage, a much stronger case has often been made out ; especially when the great length of time is considered, and when it is recollected that the whole question turns on the meaning and construction of a single word. So long a usage would have changed even the popular meaning of almost any word in the dictionary, much more its technical and legal value and import.

But though the question may be safely left, if anything can be considered safe, on the ground of a usage traced up as far as regular records will go, and very near to the source, there is yet another ground even stronger, if stronger can be desired. By the constitution of Massachusetts, formed by the people in 1780, it is declared 'that the President and Fellows of Harvard College in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have or are entitled to have, hold, use, exercise, and enjoy. And the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard College, and to their successors, and to their officers and servants respectively, forever.' This is the highest sovereign sanction. No legislature, no court of justice, no body of men existing in the state, may contradict or disturb this ; for by the same instrument and the same tenure, they hold whatever powers they may possess. Now, when the five Fellows of Harvard College were thus solemnly and completely confirmed in all they possessed, four of them were neither residents nor instructors. Moreover, this full confirmation has been again and again recognized by different legislatures in many acts, and renewed by the whole body of the people, in the convention of 1821, when all the Fellows were nonresident. The argument is irresistible.

And here it would be perfectly safe to stop, but, perhaps, the subject may be made somewhat more clear, though the argument cannot be rendered more certain, by an examination of the principal points urged by the memorialists. 'The memorial,' as it has been declared by the report of the com-

mittee of the Overseers, 'is, throughout, in form and in substance, a claim of right'; and its purport is to show, that the Fellows recognised in the charter of 1650, ought to be resident in Cambridge, ought to be instructors or governors of the college, and ought to receive a stipend from the funds of the college. These qualifications, it is contended, are involved in the very meaning of the word *Fellow*, as used in the charter, and on the definition of this word, the whole argument rests. To the three parts of this definition, therefore, I will now, for a moment, turn.

The first question is, whether a Fellow of Harvard College, under the charter, is bound to *residence*. The charter is silent, and, of course, it is a mere question of interpretation. The arguments of the memorialists are, that, in the English universities, where many of the founders of Harvard College were educated, this was a part of the meaning of the word Fellows, all of whom, by the laws of their foundation, are represented, as residing within the walls of their respective colleges; that the ancient usage under the charter of Harvard College, was the same; and that the words of the charter, fixing the college as a corporation *in* Cambridge, make it essential that the members of the corporation should be there resident.

As to the meaning of the word, Fellow, in the English colleges, it is various, according to the various terms and conditions prescribed in their different statutes and charters. But unless residence is particularly prescribed, it is not necessary. This might be proved by many decisions of the courts of law in Great Britain, where the question has incidentally or directly occurred; but one case from the highest authority is sufficient. Lord Camden says, in *Hayes vs Long*, 2. Wilson, 310, 'great numbers of persons remain on the books, long after they have left the university, on purpose to vote for members, &c. Many who are Fellows of colleges never go thither at all. I myself was one for a long time, and never went there at all.' The same may be proved by usage. The registers of Oxford go back to about the year 1500, and immediately after that, we find Grocin and Linacer nonresident Fellows. The statutes of Jesus College, made somewhat later, by commission from Queen Elizabeth, recognise the existence, at that time, of a majority



of nonresident Fellows.\* The succession could easily be traced without interruption down to the present time. Sir William Jones was a Fellow at Oxford and a Lawyer in London, many years; and so was Sir William Blackstone. The Ratcliffe Fellows are even compelled to travel, and be absent from the kingdom a certain number of years. There is now alive, in the state of Maine, a Fellow of Cambridge, who has lived in Maine, and received his stipend nearly thirty years; and there is a Professor in the University of Virginia, who was elected to a Fellowship with a large income, after it was known he was bound to residence in the United States. The argument therefore from the use of the term in the English universities fails, for residence is certainly not necessary to constitute a Fellow there.†

As to the question of usage at Harvard, under the charter of 1650, I have already considered it. There was, it may almost be said with absolute certainty, one, and perhaps more than one, nonresident among those named in the charter; but, from the moment the records will furnish information, or for above an hundred and fifty years, there is an unbroken usage in favor of nonresidents. This is certainly enough, as far as usage is concerned.

But there is another ground taken, to show that the Fellows of the corporation should be resident. It is said that since the words of the charter are, 'the college *in* Cambridge shall be a corporation consisting of seven persons,' that conformably to the charter, it is *in* Cambridge these seven persons must be found resident. This implies, of course, that the president and treasurer are bound to residence, which I believe is by no means insisted upon in the memorial. But, whatever it implies, it is simply a mistake in point of law. Nothing is better settled than that a corporation, like that of Harvard College, has no place of commorancy, although the corporators may have. 2. Mass. Rep. 544. Take the case of Dartmouth College, which being a similar institution, and having a very long charter drawn with great technical skill, may be considered a case singularly in

\* It is declared there are eight Fellows then in the corporation, 'et illi ita locis disjuncti sunt ut sine suæ salutis dispendio, in dictum collegium convenire nequeunt.'

† See note (A.) at the end.

point. The charter of this college first declares, that 'there shall be a college erected *in* our said province of New Hampshire, by the name of Dartmouth College,' and then provides that 'there shall be *in* said Dartmouth College a body politic consisting of trustees of Dartmouth College.' This is a stronger case than the charter of Harvard College, as to the residence of the members of the corporation; and yet seven of the twelve trustees named in this very charter, are designated in it as inhabitants of Connecticut, and the first meetings of the board were held *in* that province. The directors of a bank *in* Boston, may all live out of town, and hold legal meetings out of town; and manufacturing companies established *in* particular places in the interior, do actually hold their meetings, both of stockholders and directors, in Boston, and transact there most of their corporate business.\*

Indeed, both by the example of the English colleges, by construction of law, and by usage, it seems to be plain, that, to be a Fellow within the meaning of the charter of Harvard College, residence in Cambridge is not necessary.†

\* It might be curious enough, under such a construction of the law, as has been insisted on, to inquire, where the members of a corporation are required to reside described in the charter of All Souls College, Oxford, 1437, as Collegium animarum omnium defunctorum Oxoniæ.

† Some other arguments have been adduced to show, that residence is implied in the word Fellow, in the charter of 1650; but, I think, they can have very little weight.

The *first* is, the use of the word '*Maintenance*' in the preamble to the charter, where it is said that 'sundry gifts,' &c. had been bestowed, 'for the maintenance of the President and Fellows.' But these are the 'poorer sort of Fellows' mentioned elsewhere; not the corporate Fellows. They are the 'certain Fellows and poor scholars,' for whom the contribution of 1652 was made; they are the Fellows contemplated in the order of court of 1653, appointing, among other things, a committee 'to consider what number of Fellows may be necessary for carrying on the work of the college, and what yearly allowance they shall have, and how to be paid,' and, therefore, not the corporate Fellows whose number was before settled by the charter of 1650; in short, they are persons, who were to be educated, or, in some instances, to teach; but not the persons who were, from this circumstance, to govern all the affairs of the college.

The *second* is, a *form of induction* used for Fellows, before the date of the charter, which seems to imply that the Fellow inducted by it, should reside. But there is no proof attempted, that this formula has been used since the charter was given; and, therefore, it has nothing to do with the Fellows of the corporation.

The *third* argument is, the *Tutor's Pasture*, which is said to have been given by a formal deed, in 1645, to the *Fellows*, and that, until very lately, it has been enjoyed by the *Tutors*, and that tradition has settled it to be the *Tutor's Pasture*. But, if there be precisely such a grant, of which I am

The next question, therefore, is, whether the Fellows mentioned in the charter are bound to be *instructors* or *governors*. Here again the charter is silent ; and the memorialists appeal to the meaning of the word in the two English universities, and to the ancient usage in Harvard.

But the English Fellows receive stipends for their support, that they may have leisure for study, and that they may be able to learn, and not because they are required either to teach or govern. Some, though compared with the whole number, a very few, *may* be tutors or professors ; but, if they are, it is because they are specially elected to be such, and not because their fellowships imply any such thing. Others cannot be teachers at the time they are chosen Fellows, as, for instance, the Fellows of King's College and Trinity Hall, Cambridge, who may be undergraduates, and some of the Fellows of Exeter College and New College, Oxford, who must be. So plainly is this principle recognised, that Fellows are learners, and not teachers, that in Dr. Ayray's case, Coke's Rep. Part. XI, p. 18, it is shown that, in the charter of Queen's College, Oxford, *socii*, *fellows*, and *scholares*, *learners*, are convertible terms ; and in the statutes of Trinity College, Cambridge, the Fellows are called *socii scholares*, *associated learners*, while the undergraduates are called, *discipuli scholares*, *learners under discipline*.

But even the corporate rights are sometimes denied to the Fellows of the English universities. Thus, for instance, the government of Christ's Church College, Oxford, belongs exclusively to the Dean and Chapter of Christ's Church Ca-

somewhat doubtful, it was void from the first, and, therefore, cannot be cited as proof, for the Fellows were not a body capable of receiving and holding real estate, till five years afterwards.

The *last* argument is, that individuals *little known* were taken for the first Fellows, and that no other reason than their residence, can be given for the selection of such persons. But the college was so humble a school, that, in 1650, it seems to have been difficult to get suitable persons to serve in the corporation ; for, in an order of the court, passed on the petition of Henry Dunster for this very charter of 1650, the court answer, they will grant one, provided 'meet persons be presented,' 'neither magistrates who are to be judges in points of difference, that shall or may fall out, nor *ministers, who are unwilling* to accept thereof,' &c. &c. Indeed, it can hardly be doubted that young men little known, were chosen, because no others so good could be found, who would accept ; and not because they lived in Cambridge, or taught there.

These four are all the remaining reasons that I have observed on this subject, and they seem quite inconsiderable, either taken severally or in the aggregate.

thedral, and not to the Fellows of the college. Moreover, if the original foundation of a college prescribed a limited number of fellowships and others are afterwards added, the Fellows thus engrafted on the old stock, have no privileges in the government. This may be seen in 3. Atk. 662, 666, 674, Attorney General *vs* Talbot, in Burr. Rep. 1. 202, 203, and in Rex *vs* Bishop of Ely, 2. Term Rep. 296. It has, also, been ruled in the case of Peter House, Cambridge, where eight out of twentysix Fellows, have no corporate rights or authority; no office or voice in the affairs of the college, 2. Term Rep. 291. And the case of Magdalene College, Cambridge, is a very remarkable one, because there four Fellows have the control and government of the college and thirteen are without it. Of course, the case of the English universities cannot be brought to prove that no person can be a Fellow, who has not a share in the government of a college.

Nor is there better ground for it in the usage at Harvard. When the charter was given, and till 1672, the number of students, as far as the catalogue will inform us, averaged under thirty; and, since the President acted as a teacher at that time, it is incredible, that five other persons were appointed and paid from the revenues of the college to teach and discipline these thirty young men. But, what is more to the point, perhaps, we find it all but absolutely certain, that one of the Fellows named in the charter, was not a teacher or resident governor, and we find it quite certain, that there has been an uninterrupted succession of such Fellows from as far back as the records will lead us.

The last part of the definition of Fellow of Harvard College contended for, is, that he should receive a *stipend* from the funds of the college; and the ground taken to establish it is the same as before, the usage of the English universities and the ancient usage at Harvard College.

That the English Fellows receive stipends, there is no doubt; some very small, only £5 or £6 per annum, and others rising to several hundred, but amounting, taken one with another, to about £25 or £26 a year. 3. Atk. Rep. 669. But the object of these stipends is entirely different from any thing contemplated in the charter of Harvard College. The Fellows in the English colleges receive their stipends on condition of devoting themselves to learning; and

some particular branch is generally required, as the civil law, philosophy, or most frequently, divinity. But nothing of this sort is intended or intimated by the charter of 1650, and the whole memorial disavows it. In speaking of the English colleges, Lord Holt says, *Phillips vs Bury*, 2. Term Rep. 353, 'There is no difference between a hospital and college, but in degree. A hospital is for those that are poor, and mean, and low, and sickly. A college is for another sort of indigent persons ; but it hath another intent, to study and breed up persons in the world, that have not otherwise to live.' The duties and studies, therefore, of the persons who are thus to be assisted and bred up, are often prescribed to them. In All Souls College, twentyfour of the forty Fellows are required to study philosophy and divinity, and the remaining sixteen are required to study civil and common law. Trinity College, Oxford, is declared to be for poor and indigent scholars in the University, twelve of whom are called Fellows, and to be educated in the study of philosophy and divinity, and eight called Scholars, to be educated in logic and rhetoric. And so on, probably, of every other college at the two universities. Indeed, the more it is examined, the more it will be found, that the object of fellowships in the English colleges was and is, uniformly, to educate the incumbents, whether present in the colleges or elsewhere, and that the stipends are given to further this design, as the counsel, arguendo in 4. Mod. Rep. 84, says, 'the fellowship of a college is for a private design, *only to study*.' Now it has never been imagined that the design of the charter of 1650, was to create five or seven Fellows, who should receive stipends to enable them only to study ; and therefore the argument for stipends, as far as it is derived from any supposed analogy in the case of the English colleges, is without foundation.

The usage at Harvard is equally plain, so far as the records go. It is incredible that there were five stipendiaries, besides the president, to so humble and poor a school as this was in 1650 ; it is probable one individual must have been in a situation, where he certainly would not receive a salary from the college ; and it is certain that there is a usage of above a hundred and fifty years to the contrary.

And this concludes what I had proposed to say on the three parts of the definition of a Fellow at Harvard College ; and

from considering the whole, there seems hardly the shadow of a ground for claiming, either that our Fellows should be resident, that they should be teachers or governors, or that they should be stipendiaries,—much less, certainly, is there any ground that they should be all three together.

It should not be forgotten, however, that this word, Fellow, is a term known in many other places besides colleges. ‘The President and Fellows of the Royal Society,’ constitute a body as well recognised by law and charter, as ‘the President and Fellows of Magdalene College,’ and if there had been an invariable legal meaning to the word, beyond the obvious one of *associate*, it must have belonged to each of these Fellows equally. We have too, by law and charter, ‘Fellows of the American Academy of Arts and Sciences,’ as well as ‘Fellows of Harvard College,’ and yet they have nothing but their association, in common. Nor are the qualifications of Fellows at the different English colleges so settled among themselves, that any strict conclusions can be drawn, as to the meaning the term should have in any particular case. Some Fellows possess corporate rights and great power; others have neither. Some Fellows must be born in a particular county; and others may be born anywhere in the kingdom or out of it. Some Fellows are bound to reside in their colleges; others are not; and yet others are compelled to quit the kingdom and reside abroad. Some Fellows must be in orders; others are required not to be. Some must have taken degrees; others must not; and others become Fellows merely by entering as undergraduates and claiming the privilege. In short, there is as great a variety in the meaning of the word, Fellow, in the different colleges of the English Universities on most points, as can well be imagined. But there are two points on which, they all agree, and these points, it is singular enough to observe, amidst so much citation of the English colleges as authorities, for a very exact meaning of the word at Harvard, have never been claimed to be essential or even desirable, in the definition of a Fellow of Harvard College. These two points are, first, that the person created a Fellow, should receive a stipend in order that he may have leisure to acquire knowledge wherever he may be; and second, that he may continue a Fellow only during his celibacy, it being supposed that the cares of a married

life will interfere with that acquisition of knowledge, to promote which the stipend is given.

The truth is, that the case of the Fellows of the English colleges, has nothing to do with that of the Fellows under the charter of Harvard College of 1650 ; and, moreover, it is also true, that the meaning of the word Fellow, is so widely different in different acts and charters of incorporation, that its particular signification in any one, beyond that of a simple *associate*, must be determined by the words of the charter or act itself. Now it has never been supposed that there are any express words in the charter of 1650, binding the Fellows of Harvard College to residence, to receive stipends, and to be engaged in the government or instruction of the institution ; and, therefore, the argument from the meaning of the word in the charter, falls to the ground, no less than the claim of right and of usage.

The whole of this question, however, of chartered right and of construction, has been twice solemnly discussed and decided. Early in 1722, when four out of five of the Fellows were nonresident, and a vacancy occurred by death, one of the tutors preferred a claim to the place. The corporation, however, chose a nonresident ; but the overseers refused to concur, a committee of their body assigning for a reason, that 'they judge it *proper* the vacancy should be filled by the election of a resident Fellow.' The corporation considering it of particular consequence that the college should not be disturbed by quarrels, at that time, elected a tutor ; 'protesting against their acquiescence being made a precedent.' Some excitement grew out of this ; and June 13, the Overseers addressed a memorial to the General Court, desiring an enlargement of the number of the Corporation, and that, in so doing, 'regard be had to the resident Fellows or Tutors, that they may be of that number.' A committee of the General Court reported on the 28th of June an order, declaring it to be 'the intent of the said college charter, that the tutors of the said college, or such as have the instruction and government of the students, should be the Fellows and members of the corporation of the said college.' This order was accepted both by the House and the Council ; but the Governor gave his assent to it, with a proviso inserted agreeably to the wishes of the council and the overseers, which made a reservation in favor of the rights

of the three nonresident Fellows then in the corporation, and thus defeated the main design of the whole movement.

On this state of things, still greater excitement followed. President Leverett, a layman, and one of the wisest presidents the college ever had, declared himself entirely against the project, and the governor said, it would be 'fatal to the college' if it succeeded; but, still, November 10, the House of Representatives reiterated the claim of the Tutors to be elected. The Corporation asked to be heard, declaring the claim to be contrary to ancient usage; a point then more easily settled than now. But they were refused this decent justice. Several other votes were passed in the same spirit; but, at last, the Council did hear them on the 23d of August, 1723; and the Corporation, who then possessed documents, which are now lost, made out their case so entirely to the satisfaction of the Council, that the Council nonconcurring, and rejected the vote they had themselves passed the year before, and the House, on their part, desisted from a pursuit in which they had but just before shown themselves so eager and even violent. It is not easy to see how the corporation could have had a success more marked and complete. The moment they were heard, they gained their cause.

And here the question rested quietly for above a century, the Corporation consisting partly or entirely of nonresidents the whole time; but, by the memorial of the 3d of April, 1824, the whole discussion was revived anew. After this memorial had been presented to the Overseers, a report on it was made, January 6, 1825, by Mr Hill of the Council, on behalf of the Committee appointed to consider the subject, in which report it is maintained, that it is *not* necessary, by the charter or otherwise, that the Fellows of Harvard College be either resident in Cambridge, instructors or stipendiaries. The memorialists desired to be heard in reply. They were so heard on the 4th of February; Professor Everett and Professor Norton appearing on their behalf. The discussion was very interesting, and one of the most thorough ever witnessed among us. It lasted three days. At the end of this time, the following resolutions were *unanimously* adopted at a remarkably full meeting of the Overseers. 'Resolved, that it does not appear to this Board, that the resident instructors in Harvard University have any exclusive right to be elected members of the Corporation.



Resolved, that it does not appear to this Board, that the members of the Corporation forfeit their offices by not residing at College.'

It may be added to this, that, as a legal question, few have ever been examined among us with more laborious care, or by persons better qualified to decide what is the law. In the Corporation, at the time, were Mr W. Prescott, Mr H. G. Otis, and Mr J. Davis, District Judge of the United States. In the Board of Overseers, Mr Justice Story, of the Supreme Court of the United States, delivered his opinion against the memorial in a long argument. He was succeeded, on the same side, by Chief Justice Parker, of the Supreme Court of Massachusetts, Mr Justice Jackson, Mr F. C. Gray, and some other persons of distinguished talent. On the final question, not a voice was raised in the Board, or elsewhere, I believe, in favour of the memorial. The profession, in particular, seemed unanimous on all the points; and many years will probably elapse before any important question will be decided with such a great weight of legal talent and learning, after so long, so patient, and so interesting a discussion.

The question of chartered right is now, therefore, no doubt, put at rest. And well it may be. A probable usage from the granting of the charter; an unquestionable usage for above a century and a half; a direct and solemn confirmation by the constitution; many indirect confirmations by the acts of successive legislatures; and all upon a mere question of the construction of a single word in an instrument, are sufficient to produce final certainty. To these, however, are now to be added the result of the protracted discussion, which has been gone through by the constituted authorities of the College; the unanimous decision of the Corporation; the unanimous decision of the Overseers, after hearing the memorialists; and the hardly less unanimous decision of the entire community. It is extremely probable, therefore, that there will be peace and quiet on the matter for, at least, another century; for it is hazarding little to say, that not a citizen of the Commonwealth of Massachusetts holds a foot of land by a better tenure and title, than the nonresident Fellows of the College hold their seats in its Corporation.

But though it is thus certain there is no chartered right in the resident instructors to have a monopoly of the corporation within their own body; and, though it is equally certain, that

those, who may be chosen from the community at large, are not bound to reside or instruct in Cambridge ; yet still there may be another important question. It may be of consequence, on grounds of general **EXPEDIENCY**, that the Corporation should be composed of resident teachers, who, for this purpose, it has been emphatically said, would be practical men ; men whose main business in life it would be to conduct the numerous, complicated, and important affairs of this very extensive establishment ; men whose reputation, happiness, and pecuniary interest are connected with its welfare ; and men, finally, who are likely to possess a fair average of the general qualities necessary for such places.

One would think, however, that the qualities necessary to constitute a valuable and useful member of the Corporation of such a college, are very different from the qualities necessary to constitute a valuable teacher ; that he, who is a practical and efficient man, in the one place, is not by any means certain to prove so in the other ; and that the duties of each place are sufficient for their respective incumbents. For an instructor in any of our colleges, who teaches faithfully as many hours in each day as may reasonably be expected from him, and gives all the attention and labour needful to do his part in preserving good discipline, and pure feelings and principles among those committed to his charge, need not be ambitious of any increase of his powers, or responsibilities. He has as much power as he can faithfully exercise, and as heavy duties as he can thoroughly fulfil. These duties, too, are very different, or, at least, are often very different from the cares and discussions necessary in the management of the funds, in preserving the external relations of the College, in selecting suitable teachers to fill vacancies, and in giving many of these teachers heavier labours and lighter salaries, than they would have taken, if the choice had been left to themselves. A person, it is obvious, may be eminently qualified for one of these places ; so well qualified, that it would be an injustice to the community, if it were not given to him, and yet be entirely unfit for the other.

If one or two of the principal duties of the Corporation be now considered, this may be made more plain. They have the management of the funds of the institution ; and, it is certain, that retired scholars, living on salaries, are not

likely to be the most practical men, that could be found to make wise investments and arrangements of large property. Nor would they be likely to manage it so disinterestedly, either in relation to themselves, or to the majority of the teachers, who would *not* be members of the Corporation, as if they received no portion of the incomes they would be called to administer. On this point, the case of the English colleges is full of warning. Their corporations are so organized, that nearly all the temptations, which would be constantly presenting themselves in our colleges, are at once excluded, since there is either a division of the income according to settled rules, which the incumbents cannot alter, or a regular stipend to each. Still difficulties, and great difficulties, have often arisen. The generation of incumbents has often endeavoured to encroach on the property of the generation that was to follow them; and the legislature and the courts of law have been compelled to be extremely vigilant to defeat the ingenuity of their selfishness. Three statutes were found necessary in a single reign; and cases are scattered up and down in almost all the reports, which show, they have been continually disposed to take to themselves more of the corporate property than belonged to them.

But the case of the five Fellows of Harvard College, as the Corporation is now constituted, is above all such suspicion. They have no pretence whatever for taking any part of the incomes; since they perform all their laborious duties without any compensation whatsoever; and, of course, can gain nothing whatsoever, by the management and control of the funds. On this point, one fact is sufficient. In Mr Webster's report to the Convention, January 4, 1821, it is said, 'No delinquency to the amount of a single shilling, is known to have existed in any member of the corporation, or any of their agents or servants, from the time of the first donation, in 1636, to the present moment.'\* Now, it seems very desirable and important to keep the management of the funds in hands, thus necessarily beyond all temptation, reproach, or suspicion, which certainly could not be the case, if their management were committed to the persons, who are chiefly to be benefited by their own administration of them.

Neither could it be advisable to intrust a corporation of

\* The Treasury accounts, however, extend back, I believe, only about a century; but the main property of the college has been acquired since.

teachers with the power of electing, removing and controlling both themselves and all the other teachers. There would probably soon be an end of confidence, cordiality, and kind cooperation, if one fourth part of the instructors of a college not only had the right to assign and distribute the duties of the other three fourths, but were bound by their very offices to exercise a constant and careful supervision over them ; to impose on them unwelcome burthens, which they might not think fit to impose on themselves, and to deny them privileges, exemptions, and benefits, to which they may think themselves entitled. There could hardly be a surer foundation for discontents, differences, and quarrels, than such a distribution of powers would aptly furnish. And even the mere right of nomination has not been wisely used. While no salaries whatever were annexed to the places of teachers, the *Senatus Academicus*, or a single faculty, sometimes nominated, at the older German universities, but so much injury and injustice came from it, that the privilege was, in time, taken away. At Jena it was so grossly abused, that it was given up by a sort of common consent. At Halle it was only permitted with great restrictions ; but, these not being found sufficient, it was abolished ; and at Göttingen, it is noticed among the wise arrangements of its wise founder, that he was taught by the experience of the older universities of the country, and never permitted it at all.

Indeed, on the whole of this point, of the expediency of having a corporation to consist of teachers, it is only necessary to use the words of the committee of the Overseers, who say in the conclusion of their report, they ' would simply remark, that all the instructors are appointed and are removeable, and that their duties are prescribed, their compensation fixed, and their conduct regulated only by the vote of the Corporation, in concurrence with that of this board, [the Overseers,] and that, consequently, if they composed the whole Corporation, no act touching them could be passed without their own consent, and thus, though they would not have unlimited power, they would, in effect, be exempted from all responsibility and control.' Such a body of men would hardly fail, in the course of a few generations, to make a college, as much, and as truly a monopoly for their own benefit, as anything in the English universities. It is a body whose powers would be entirely against the genius of

our institutions, and it would never be countenanced by public opinion.

But there may be yet another form of the question, or rather, there may be yet a small point connected with it, that may be thought defensible, after all the rest have been abandoned. It may be thought well that *one or two* members of the Corporation should be taken from among the resident teachers. But why a part, if not the whole? If six or seven resident teachers are unsuitable persons to manage the funds, choose one another, and assign one another's duties, why should one or two be permitted to have a voice about it? If *all* are too much parties concerned, how does *one* become disinterested? Indeed if this be considered as a matter of principle, the case is very clear. A Professor or Tutor chosen into the Corporation, would be constantly acting in affairs, that concerned his own conduct and his own interests; voting over again upon his own votes; discussing the relations and duties of other instructors, who are necessarily in such close connexion with himself, that frequently burthens cannot be imposed on them without lightening his own shoulders, nor privileges be enjoyed by him but at their expense; in short, deciding by direct influence and personal voice, on his own exemptions, his own labors, and his own income. Now it was found productive of much difficulty, and grave complaints have been made, that some of the Corporation have been members of the Overseers; and yet this is a small matter compared with having an instructor in the Corporation, because the Overseers have no profit from their places, and no duties but attendance on their own meetings and the meetings of their committees; yet this was well considered an abuse, and a remedy has been wisely provided for it in Mr Justice Story's report.

But, besides the question of principle, there would be great inconveniences and difficulties in the practice; for if only one or two instructors came into the Corporation, they would probably not be found in full harmony with the remaining members, and would besides be exposed particularly to the suspicions and jealousies of their fellow teachers, who could not be expected to regard their privileges and elevation with a very favorable eye. All this, however, is not a matter of speculation and conjecture, but of experience, settled in the whole course of legislation, and by the com-

mon sense of the country. For I do not know of a single College, whose charter indicates the propriety or necessity of choosing a teacher into the corporation, that manages its property and appoints its instructors ; and yet the last charter that was granted in New England, the charter, I mean, of Amherst College, which was passed in February, 1825, after much discussion, while the question about Professors' rights was at the height of its flood, should have contained some provision of this sort, if such a provision were as valuable as it has been represented.\*

But this is not the strongest view of the ground of experience ; for not only has the whole course of legislation and regulation been on one principle, but, after an actual experiment in several of our Colleges, the common sense and practical wisdom of the community has settled the usage, in a very marked manner, in the same way. For in six Colleges, where alone I have obtained information, their earlier history shows that professors were, at first, occasionally chosen into their corporations ; and, in all of them, this practice has since been discontinued, because more suitable persons could be found, and in two, or perhaps three, instances, the practice has been discontinued, because serious inconveniences, troubles, and quarrels were found to arise from it. The expediency of not having Professors in the Corporation, has, therefore, been repeatedly settled among us by experience ; sometimes by bitter experience. Indeed, I do not believe the practice ever prevailed anywhere, after the institution had become of sufficient consequence to engage the more prominent members of the community in its management, and it is so obvious an advantage to add their general influence, their talents, and their practical knowledge of affairs, to the interests of such an establishment, which already has a clear and purchased right to all the time, all the powers, and all the experience of its resident teachers,† that

\* The Society for the Promotion of Theological Education in Harvard University, also, formed for itself a new constitution in November, 1824, pending these discussions and not unmindful of them ; yet it contains no provision to have a teacher or teachers in the board that controls all its affairs ; and, de facto, no teacher has been chosen a member on the ground of expediency.

† I mean by this, not merely what the instructors can do for the discipline and teaching of the students, but I mean, that, from the very nature of their offices, they are bound and always have been bound in their individual as well as in their collective capacity, just as much as if they were corpora-

It is inevitable, setting aside the impropriety of choosing teachers into the board that is to elect, pay, and control teachers, that the common sense of the community and the course of legislation, should settle the question in the same way.

The particular question, too, of the expediency of choosing a teacher into the Corporation at Cambridge, has been lately twice practically tried and disposed of. Two elections have happened since these earnest discussions were had in the board of Overseers, and two persons neither residents, teachers, nor stipendiaries have been chosen. In the first case, there was an opposition to the confirmation by the Overseers, arising, however, chiefly or entirely from causes, disconnected from the college. In the last case, where opposition from causes connected with the college, might most have been expected, the confirmation was all but unanimous. So that, for the future, we trust this point is put entirely at rest, and that, as it has not been brought up during the century past, so it will not be brought up again during the century to come.\*

But since it has been thus settled, so far as it is possible such a question should be settled, that the resident instructors of Harvard College have no exclusive right to be elected into the Corporation; that no member of the corporation is bound to reside or teach in Cambridge; and that it is inexpedient to elect resident teachers into the corporation, it follows that the changes, which are to take place, will not extend to the organization or powers of the different bodies, but be confined to discipline and modes of instruction.

The project, however, for material changes in the condition of Harvard College; changes which must interest more or less other similar institutions, was entertained long before the memorial was written, and has never, for a moment, been abandoned. In the summer of 1821, the attention of the Corporation was seriously directed to this important subject, and they sent to all the resident instructors and to some not resident, a large number of questions embracing whatever

tors to furnish the corporation with all the information and opinions, they think will promote beneficial changes or general improvement at the college. Moreover, this has been acted upon; how often I know not; but, in the cases I have known, the communications have uniformly been respectfully received and carefully and kindly considered.

\* See note (B.) at the end.

concerned the discipline, morals, and instruction of the students, to which each person was desired to give written answers. Many sent replies ;—some did not. But, on comparing the answers, it was found, that hardly two persons were agreed on any one point, and that there was a great majority against any material change. A considerable number, perhaps nearly all, were in favour of requiring the students to wear an uniform dress, and of making some attempt to reduce the expenses of those who set a bad example of extravagance. Regulations on both these points were, therefore, made at once by the corporation ; but they went no further, because it was clearly the opinion of a majority of the teachers, that nothing further was needed.

Here, therefore, the matter rested, until, in the spring of 1823, there were considerable disturbances at College, and about forty young men were dismissed in a very short time. This excited attention to the subject anew ; and, chiefly at the request of two resident instructors, a meeting of a few persons, much interested in the College, was called in July, 1823, in Boston. At the particular instance of these two gentlemen, no resident officer was desired to attend ; but, as those who called the meeting were anxious to bring together as much information concerning the College as was consistent with this restriction, two persons were invited who had recently been resident officers, two who were then non-resident officers, and four members of the board of Overseers ; all of whom were among the faithful friends of the College, and all of whom had long been designated by the appropriate authorities as fitted to perform much higher duties to the College than were now imposed upon them. It was hoped to have had some members of the corporation present ; but the corporation had a meeting, on the same day, under circumstances which rendered the absence of any member from it impossible. It was hoped, too, to have had present one of the Overseers particularly connected with a resident officer ; but he was out of the Commonwealth. Nine, therefore, was the whole number that assembled. They inquired with great patience into the state of the College, for which they brought both personal and official information, and came to the conclusion that large changes were necessary. Such changes they thought could be best discussed and settled by a committee of the Overseers, and



this committee they endeavoured to have appointed at the next meeting of the Overseers, and they succeeded. But they went no further. They settled no plan for a reform, and proposed none to the committee ; but the committee were met by a committee of the corporation and had before them the answers of the instructors to the questions of the corporation, amounting to two or three hundred pages ; so that there was no want of detailed information on the affairs of the College. Their meetings were long and laborious ; and their report differed essentially from the discussions and conversations at the meeting held in Boston in July.

This report was presented, on the first of June, 1824, to the Overseers by the chairman of the committee, Mr Justice Story, now one of the Corporation ; and it proposed important changes, involving a great increase of labour and duties on the part of the instructors. It was, at once, partially discussed ; but, as the Overseers did not think themselves possessed of sufficient information concerning the state of the College, its means and management, another committee was appointed and requested to report at large on these points, and, also, on the modes of reform. This new committee, of which Mr John Lowell, long one of the most active and valuable members of the corporation, but now an Overseer, was chairman, made a report on the 6th of January, 1825, in which they laid before the board, with great detail and exactness, the ways and means of the College, the foundations and statutes of the different Professorships, a series of answers from the resident instructors, as a body, to a great number of questions proposed to them, and a code of Laws reported by the resident teachers to the Corporation, and by them given to the committee with a qualified assent ; so that the resident instructors having before sent in their individual opinions, and now sent in their opinions as a body, had furnished all the information and suggestions they thought desirable to both boards, as the foundation for future changes. It is difficult to conceive how these gentlemen could have been treated with more consideration ; and there is, I suppose, no reason to think they could have contributed more than they did, to the stock of information which was asked for.

In their answers, however, and in the Laws suggested by them, the resident instructors propose few changes, and none

that would much affect the old system. The vacations in their plan are not shortened ; the modes of instruction are not altered ; and the classes are still arranged alphabetically. The committee of the Overseers thought greater changes necessary, and proposed to abolish the half holiday on Saturdays, and make the division of the students for instruction according to proficiency. But neither did the board of Overseers think *these* changes sufficient. The report of Mr Lowell, and that of Mr Justice Story, were both discussed together, in January last, with great thoroughness ; and the result was, that Mr Justice Story's report, which contemplated much larger changes than Mr Lowell's, prevailed by a great majority, and was sent to the corporation, with a request, that they would embody in it such parts of Mr Lowell's as were not inconsistent with its general design, and report the whole to the Overseers, in the shape of some settled system for the management and instruction of the College.

This was done in June last, and, having been sanctioned by the Overseers, is now before the public in a code of Laws, called " Statutes and Laws of the University in Cambridge, Massachusetts," embraced in about forty pages and an hundred and fiftythree separate regulations, which, on account of the important changes it proposes, and the influence they may be likely to exercise, it is proposed now partly to examine.

In the *first* place, then, Harvard College is now, by the eleventh section of its present laws, thrown open to all who wish to obtain any of the instruction it offers, whether they intend to seek an academic degree or not. This seems to be an important and beneficial regulation. An institution, while it is poor and has few teachers, may be compelled, from the necessity of the case, or from the great inconveniences attending a different mode, to confine its instructions to a strictly marked course, the end of which is limited by a merely formal and unmeaning certificate. But a college of large means and numerous instructors, has no apology for thus embarrassing and restricting its usefulness. It should open its doors to all ; for, if its resources be properly and efficiently applied, it has means of instruction for all.

Harvard College has abundant resources to render unnecessary the establishment of many public and private institutions, like the agricultural schools, the law schools, and the

other establishments for special purposes, which like the admirable and flourishing institution at Gardiner, in Maine, are already beginning or begun among us also. These are not to be complained of; on the contrary, they are subjects of congratulation; but it is obvious, that, if Harvard College would put forth its unused means, it could accomplish at once and better, much of what they can bring to pass, only slowly and imperfectly with great labour. For such instructions must be had among us. The great increase of manufacturing establishments, which all require men of peculiar skill and knowledge to manage them; the improvement in all the arts, which supposes a corresponding improvement in the education of those who are devoted to them; and the practical intelligence and general character of the whole country, which demands, in its best sense, a liberal education for many persons in all classes of the community;—all these have long since made requisitions on our best places for public education, which have not yet been fully answered at any of them, but which the general uneasiness will not suffer to remain unanswered much longer. And it is at once the duty and the interest of a large institution like Cambridge, to meet this demand; to make its resources minister freely to a much wider usefulness than is now thought of; and to extend effectual instruction to portions of society that now never resort there; for, while it is conferring all these benefits, it will, of course, be increased in the number of its students, and be strengthened in the interests and good will of the community, by having its basis so much more broadly and firmly laid in the very constitution of our society.

In the *second* place, the vacations are much better arranged; for the longest is taken from the cold season, when the minds of all are more disposed to exertion, and placed in the hottest part of the year, when intellectual labour is the most wearisome. But, besides this, the vacations are shortened. The whole of that allowed to the Seniors exclusively, is taken away, and the others are reduced by three weeks. This diminishes the whole amount of vacations, holidays, and half-holidays, to fifteen and an half weeks per annum; an amount which still seems too great for the authorised idleness of such a body of young men, at the very best period of their lives, and an amount, too,

which, seems less necessary or wise, when it is recollected, that nothing like it is allowed to these young men in the preparatory schools before they enter college, and that they desire nothing like it afterwards, either when they are studying their professions or when they are entered into the business and cares of the world. It is to be hoped, therefore, that, at all our colleges, the vacations will be shortened; for they are now among the most obvious means by which studious habits are broken up and dissipation of mind introduced in their stead.

But, at any rate, it is presumed the students will be kept with greater strictness in Cambridge than they have been heretofore. By the third section of chapter fifth, in the old Laws, it is provided, that no student shall be absent a day or part of a day without leave. This law has, for a considerable number of years, been totally disregarded both by officers and students. For if a student attended his exercises and prayers, or submitted to the punishment for nonattendance, nothing more has been required of him, even if it were known that he was out of town. The consequence has been that many have daily left Cambridge to ride or to enjoy some kind of dissipation inconsistent with studious habits; and on Saturdays, the college has been a deserted place, and the more fashionable streets in Boston have been filled with academic dresses. This is a great abuse and contrary to an express provision of law; and, as is obvious, in the case of a college near a considerable capital, must have been a fertile source of dissipation and idleness.

But, besides these absences, of which no notice has been taken, the absences which have been marked and either excused or censured, amounted for three years to a little more than a week and a half per annum for each student. This appears from the twelfth answer of the immediate government. Now, during these three years, the average of students was two hundred and sixtyseven; and the days in each year given to study were about two hundred and eleven. This makes about twelve students absent from college each day, on an average of the three years; a number, which, to say the least, is somewhat alarming. At West Point, during a great part of every year, not a single student is absent, and, for three years, during which alone any data have been obtained, the greatest number absent on any one day, under

all pretences, was three. And yet at West Point, they have, properly speaking, no vacations, and the unnoted absences, of which hundreds have occurred every week at Cambridge, are absolutely unknown. On this point, indeed, I think a thorough reform at Cambridge important. The students *must* be kept more exactly within the precincts of the College,—much more exactly; or all attempts to raise the standard of knowledge and scholarship fail of course; for if the students are not there and there constantly enough to be more interested in their studies than in anything else, it matters little what means and apparatus for instruction may be accumulated, for they must lose much of their efficiency.

A *third* important change, and one which may be useful in many colleges, is that introduced by the fiftyeighth, sixtieth and sixtythird sections of the new laws, which provide, that the instruction given at College shall be given by *departments*; and that the students shall, to a certain degree, have a choice in the studies they are to pursue. For the branches of knowledge professed at Cambridge, which were originally few and humble, are now grown to be so numerous and important, and may be so easily extended, that the old principle of requiring every student to pass through the hands of every instructor can no longer be wisely applied, since the time for the whole academic life has not been protracted. That this would probably be the result at some time or other, may have been foreseen from the very first; for it is apparent, that, if all the students were destined to pass in all future time, through the hands of every teacher, and the circumstances of the college should occasion a large increase in the number of teachers, then, at some time or other, there must be more teachers than the system could employ, and the students must be permitted, at least within certain limits, to choose their studies; or else the appropriate benefit to be derived from the increase of instructors must be lost. That Cambridge is already arrived at this result, is evident from the fact gathered out of official documents, that four teachers give just about three quarters of the whole instruction received by undergraduates, while the remaining quarter part is distributed among eleven; and that, even on this arrangement, unequal and disproportionate as it is, it has been necessary in more than one branch, either to leave

a choice or to exact nothing at all. Such a system, of course, neither gives employment to the talent it pays for among the instructors, nor such a beneficial choice to the students, as will enable them to derive the benefit they ought to derive from any one branch.

These evils, it is apparent, may be avoided by a judicious and effective division of the instruction given at any large college, into separate departments, while some advantages may be gained which are now, perhaps, nowhere enjoyed. For, in the first place, the teacher at the head of one of these departments, would be to a considerable degree responsible for its management and success, for the character and faithfulness of the instructors associated, with him, and for the progress of the students entering it, as he would now have an opportunity to exercise a constant supervision over the whole, and better means to turn the capacity of each individual, however humble or elevated, to the best account. In the next place, such an arrangement ought to lead to another improvement ; for it would permit each department to be so adjusted, as that each individual devoting himself to its studies, should, according to his capacity, possess himself of an entire subject, rather than be merely examined, as he has been, in certain books, and so left ; for it is of little consequence, that a young man should recite the *Collectanea*, if he fail to learn Greek, or recite Brown's *Philosophy* with verbal exactness, if he fail to strengthen his intellectual faculties for purposes of reasoning, or do not gain an useful knowledge of metaphysics. Yet these faults are certainly obvious enough at all our colleges, as well as at Cambridge ; for we believe, that every where the division of studies is made by *books* rather than by the *purposes* for which those books should be read and studied. Finally, such a choice of studies, as is implied by the division into departments, would much increase the interest of the students in their occupations, and tend to make the knowledge they acquire more valuable for their future purposes in life. And, why should not the unused means of the College be employed ? And why should not the student or his friends determine in a greater or less degree, what studies he shall pursue, since more may be offered to him than it is possible he should pursue profitably ? It were to be wished, indeed, that the choice could be left without limitation, and that the period

passed at College could be thus more intimately connected with the remainder of life, and rendered more directly useful to it; but this, perhaps, is not yet possible with us, though it is actually doing in the University of Virginia, and will soon, it is to be hoped, be considered indispensable in all our more advanced colleges.

A *fourth* important change is made by the sixtyfirst section of the new Laws, and provides that the divisions of the classes for recitation and teaching shall be made according to proficiency; and that each division thus made shall be carried forward as rapidly as may be found consistent with a thorough knowledge of its subjects and studies. This may be regarded, as the broad corner stone for beneficial changes in all our colleges; and as a change to which all must come so fast as their means will permit them. For it is a plain injustice, which nothing but the necessity of the case can excuse, to give a young man of high powers and active industry no more and no other means of improvement than are given to the idlest and dumbest in a class of sixty or seventy. Every student has a right not only to hasten forward as fast and as far as his talents and industry will carry him without any limit or hindrance whatsoever; but if the institution, where he is educated, possess the means, he may claim and the community may claim for him, that he should be helped forward with appropriate instruction at every step of his progress. It is a right, which all enjoy in good preparatory schools before they resort to college; and it is a right of which no man will permit himself to be easily defeated, when he is afterwards entering into his profession or into the business and interests of the world.

The benefits from such a change are apparent. The time of all the students may be better filled up; and all may be appropriately assisted and excited with instructors in every part of their studies. Discipline may be improved and made easier, for the best moral discipline of students is that which is laid in the careful and wise occupation of all their time and powers; and the healthiest reward for exertion may be offered to all, since all will feel that acknowledged, open progress, which was the motive that governed their best efforts at school, and which is the motive, that will vindicate its power again as soon as they emerge into the cares and struggles of life.

But besides these great advantages, the number of students that would recite together, being small, and those being associated for instruction in each branch, who from talent and industry belong together, the recitations, instead of being dull examinations restricted to a given book, may be made interesting as sources of instruction on the subject itself; the mind of the teacher being made to act directly on the minds of his pupils in familiar teaching and illustration, for which, under the present awkward division into alphabetical classes, no opportunity exists.

Moreover, with a division of the students according to proficiency, it will be more difficult to organise extensive combinations or rebellions, which now arise almost entirely from their arrangement into large classes; an arrangement, which makes no distinction between the industrious and the idle, the dull and those of uncommon talent, the orderly and the turbulent; but which often gives most influence to those who employ their time and powers chiefly in acquiring and using it badly. Now, on the present plan, if faithfully executed, no such division of classes can exist as has heretofore been recognised; and precisely the same individuals will, probably, be seldom brought together in two branches of instruction. The intelligent and laborious, therefore, standing by themselves and united among themselves in the respective departments and divisions, will not come into subjection to an unworthy majority as they often do now at all our colleges; while, at the same time, these who would recite together in one branch, as for instance mathematics, being little likely to meet in exactly the same relations for their exercises in Greek or Latin, the very principle on which combinations and rebellions are now organised would be almost entirely unfelt.

In fact, this arrangement of the students according to merit and character rather than according to the alphabet, with facilities and inducements for all to advance as fast and as far as possible; or, in other words, the constant and faithful occupation of the time of each student, under the supervision of a teacher, seems to lay at the foundation of the best improvements that can now be made in our Colleges generally, and of the best efforts to raise higher the standard of education and acquirement among us.



It is, also, provided by the thirtyseventh and thirtyeighth sections of the new Laws, that the *examinations* of the students shall be much more efficient than they have been. Heretofore, the public examinations at most of our places of education, except West Point, have been miserable farces, which have imposed on nobody ; not even on the students subjected to them. The mode now proposed at Cambridge, is, that the examining committee may be selected from the community at large ; and it is hoped, the provision in Mr Justice Story's report will be added, that the necessary expenses of such committees shall be borne by the College, and that the committees may employ as much time as may be found expedient. For it is idle to think of hurrying, in a single day, through the examination of sixty young men in the studies of a year ; and it is unreasonable to expect that gentlemen will come from a distance and undergo considerable expense, for many days, in order to do it more thoroughly. A good examination of this sort is one of the most laborious and one of the most valuable services that can be performed for the advancement of knowledge ; and, if it be well done, should not only be thorough, patient, and exact ; but, should be public at the time, and public in its results. The persons who make it, should send in a detailed report, sufficient to exhibit the state of the institution, and this report should afterwards be printed under the responsibility of their names. The community would then have such knowledge as they need concerning our Colleges, and a better guarantee for their progress, than they now possess.

It might be appropriate to notice at length some other of the changes provided by the new code of Laws which has just been given for the government of the College at Cambridge, because, there are yet others which involve general questions and principles of education ; but the present discussion is already too long. Some of them, however, ought at least, to be mentioned. The arrangement, for instance, in section nineteenth, which requires the President to maintain an exact supervision over the whole institution, and to be present, for the same purpose, from time to time, at the recitations and exercises of all the officers, is obviously very valuable. It is the appropriate and most important duty of his office ; it is for this he has a place of higher dignity and emolument and is exempted from the labour of teaching ;

and it can hardly be doubted, that the provisions of this section may be so fulfilled, by efficiency and exactness, as to produce an excellent effect on the progress of the students and the general character of the institution.

The provision, too, in the twentyeighth section, that the emoluments of the officers generally shall be made to depend, in part, on the number of students on the rolls of the College, is good. Its foundation is laid so deeply in some of the strongest principles of our nature, that it recommends itself at once to the good sense of all.

The abolition, in section fortyfirst, of the long train of petty fines, which drew after them neither obedience nor repentance ; the total change in the character of suspensions, which, instead of being mere banishments, are now made means of more careful teaching and severer discipline ; the provision of section fiftysecond which sends home to the parent once every three months, a quarter bill, both of all the censures and all the rewards of his child, and thus brings the weight of domestic and parental influence directly in aid of the authority of the College ; the regulation in section seventyseventh, which provides that in cases of combination, punishment shall begin with the two oldest, as having more discretion and responsibility, and probably more influence with their fellows in promoting the disturbance ; and the provision of section seventyninth, that students who do not fulfil the purposes for which they came to the University, shall, in justice to themselves and their friends, be quietly dismissed with no reproach at all, or with as little as possible ;—all these are excellent regulations, and may be so used as much to strengthen and improve the character of any College where they are or may be adopted.

There are other regulations in this new code which seem less wise, and some that may, perhaps be found injurious ; but the main outlines and changes seem excellent, and I forbear from noticing the lesser matters, partly from want of room and partly from the ungraciousness of the task. There are also deficiencies, which those who are interested in the subject can wait patiently to see supplied, because it is understood that still further important changes are contemplated ; and because it is certain that such a work as has now been undertaken, cannot be stopped midway. But it may, perhaps, be observed of the whole code, that as a com-

position, it is not so well written as all that comes from such a source should be ; and that, as a body of laws, it greatly lacks that air of decision, energy, and exactness which is quite as important when applied to the little commonwealth of a college as when applied to the larger one for which the college is to fit its temporary subjects. Moreover, the whole code has seemed to many persons too long. Such petty regulations as those about prizes in the third chapter, and such a tailor's document as encumbers the eighth chapter, can have no proper place in it ; and in many sections, the excellent rule of Hesiod, which is full of good sense on such an occasion, *πλέον ἡμῶν παντος*, "the half is more than the whole," seems to have been forgotten from a desire to give something like what Lord Mansfield considered the worst part of a Law,—the reasons for it. But these are not very important things compared with the great changes suggested, which, if carried through with alacrity, perseverance, and energy by the officers to whom they are now committed, will do much to raise the tone of the higher branches of education among us.

But there is one point that, I believe, must be made a sort of cynosure, when beneficial changes are undertaken, both at Harvard and at our other colleges ; and that is, the principle of thorough TEACHING. On this point, it is desirable to be perfectly plain, and to be very plainly understood. It is a small matter to diminish the unreasonable amount of holidays, or to give the students more and longer lessons, under a division according to proficiency, or to do almost any thing else, if the principle of *teaching* is still to be overlooked. For the most that an instructor now undertakes in our colleges, is, to ascertain from day to day, whether the young men who are assembled in his presence, have probably studied the lesson prescribed to them. There his duty stops. If the lesson have been learnt, it is well ; if it have not, nothing remains but punishment, after a sufficient number of such offences shall have been accumulated to demand it ; and then it comes halting after the delinquent, he hardly knows why. The idea of a thorough commentary on the lesson ; the idea of making the explanations and illustrations of the teacher, of as much consequence as the recitation of the book, or even of more, is substantially unknown in this country, except at a few preparatory schools. The conse-

quence is, that, though many of our colleges may have a valuable apparatus for instruction ; though they may be very good, quiet and secluded places for study ; and though many of the young men who resort thither, may really learn not a little of what is exacted or expected from them ; yet, after all, not one of our colleges is a place for thorough *teaching* ; and not one of the better class of them does half of what it might do, by bringing the minds of its instructors to act directly and vigorously on the minds of its pupils, and thus to encourage, enable and compel them to learn what they ought to learn, and what they easily might learn.

Consider only, that as many years are given to the great work of education here as are given in Europe ; and that it costs more money with us to be very imperfectly educated than it does to enjoy the great advantages of some of the best institutions and universities on the continent. And yet, who, in this country, by means here offered him, has been enabled to make himself a good Greek scholar ? Who has been taught thoroughly to read, write, and speak Latin ? Nay, who has been taught anything at our colleges with the thoroughness that will enable him to go safely and directly onward to distinction in the department he has thus entered without returning to lay anew the foundations for his success ? It is a shame to be obliged to ask such questions ; and yet there is but one answer to them, and those, who have visited and examined the great schools of Europe have bitterly felt there, what this answer is, and why it must be given.

In some of our colleges, there may be a reason for this state of things. Their means are small ; their apparatus incomplete ; their instructors few. They do what they can ; but they cannot do much more than spread before their students a small part of the means for acquiring knowledge, examine them sufficiently to ascertain their general diligence, and encourage them to exertion by such rewards and punishments as they can command. And in doing this, they may do the community great service and honourably fulfil their own duties. But at Cambridge and at our larger colleges much more than this can be done and ought to be done. The young men may be *taught* as well as examined. The large apparatus of Libraries, instruments and collections, and the greater number of Professors and Tutors may be turned to much better account and made to produce much wider

and more valuable results. The increasing demands of the community may be here met; and our high places for education may easily accommodate themselves more wisely to the spirit and wants of the times in which we live. And this if done at all, must be done speedily; for new institutions are springing up, which, in the flexibility of their youth, will easily take the forms that are required of them, while the older establishments, if they suffer themselves to grow harder and harder in their ancient habits and systems, will find, when the period for more important alterations is come and free Universities are demanded and called forth, that, instead of being able to place themselves at the head of the coming changes and directing their course, they will only be the first victims of the spirit of improvement.

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NOTE (A.) p. 18.

The last number of the Quarterly Review, published since the preceding remarks were written, speaks in a very decisive manner, of the nonresidence of Fellows, complaining of its increase as an impediment to the formation of thorough scholars in England. It is there spoken of as "the present custom of dispensing, as a matter of course, with the residence of all members of foundations, who have taken the degree of Master of Arts. How little," the Review proceeds, "do we foresee the results of changes, which break in upon the rules laid down for us by our forefathers. This custom has defeated, in a great measure, the object of the founders of our colleges; and the consequence of it has been, the converting our Universities into great schools; and the leaving in them scarcely any individuals who are simply occupied in the cultivation of literature. *Fellowships are sought for, as helping out the incomes of students in the active professions of life; and the residents in the Universities are reduced to tutors and pupils.*" Quarterly Rev. No. 63, p. 91.—This proves two things; first, that the rules prescribing residence, wherever they existed, were no more than by-laws, which the corporations had power to dispense with, and which, in fact, have been dispensed with; and, second, that the purpose of Fellowships is understood in England to have been originally, and to be now, to afford means and leisure for private study. These are two of the points maintained in the preceding remarks.

The motives that induce fellows to reside at the English colleges, are very obvious. Those who are destined for the church, may hope for ecclesiastical preferment from their respective colleges, since most of the colleges have a considerable number of benefices in their gift; while all fellows may have hopes of tutorships and the present enjoyment of comfortable rooms and commons free of expense. These inducements, however, in this stirring period of the world, have ceased to have their effect, and the number of nonresident fellows is, in consequence, greatly increased.

It is a mistake, however, to say, as has been said, that the nonresident fellows of an English college, instead of having the control of the Institu-

tion, take no part whatever, in its government. On the contrary, they lose no rights by nonresidence; and so completely are their rights recognised by the resident fellows, that when any important business is to be transacted, notifications are sent to the nonresidents, that they may come to the meeting and exercise their powers. This they often really do. Indeed, in some instances, it is inevitable that the nonresidents should act. Take the case of Trinity Hall, Cambridge. This corporation consists of a master and twelve fellows. But for many years, and I believe, for many generations, the master and ten of the fellows, have been constantly nonresident. The consequence is, that nonresidents always receive notice when business is to be transacted; and, *de facto*, important affairs of this corporation are frequently transacted at meetings held in London, where the master and a majority of the fellows reside. Of course, the nonresident fellows in the English colleges have just as much control and power over their respective institutions as the nonresident fellows of Harvard College, and the argument founded on an opposite statement of facts entirely fails.

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NOTE (B.) p. 32.

There is one other proposition for a change of powers, which having been made long after the memorial was presented, and being no part of it, entirely escaped my notice, when I prepared the body of the preceding remarks; but, to which it may be proper to turn for a moment.

It has been said, that the power of originating all laws respecting the discipline and instruction of college, ought to be formally and fully conceded to the resident teachers, and that the corporation should consider itself merely as a board of control, having a negative on their proceedings. But this would involve a strange inconsistency. The corporation, in the case proposed, would manage the funds and assign the salaries; and the persons who would receive the salaries, would be left to determine among themselves what duties they would perform; for, on this plan, no duties could be assigned them but by themselves. It would be the case of a contract, where one party would be bound to pay large sums of money, and the other would be left free to choose what returns of service should be made for it. Indeed, as no duty or burthen could be imposed on the teachers, under such circumstances, save by their own free consent, or rather, on their own suggestion and proposition, it requires little knowledge of human nature to predict, that wherever such an arrangement should be adopted, the burthens assumed by those who would be left to execute it, would not be very heavy. But the whole arrangement would be a strange anomaly, because it would be a contract where one party would be bound and the other would not.

Another proposition connected with it, is, to give the resident teachers the power of nominating to all offices of instruction and discipline. Experience has proved this an unsafe and injurious power. The case of the German Universities has been already mentioned, together with the praise bestowed on the founder of Gottingen, that he had been taught by experience, and refused to give such a power to the teachers of his new university. But, at Harvard, such a power would draw after it consequences more embarrassing and dangerous. The offices to which nominations are to be made, are of very unequal value and rank. Some are temporary, and some permanent. Some are confined to the discipline of the college, and some extend to its instruction. Some have large salaries, and some small. Now those who hold inferior places, having a voice in the nomination to the higher ones, must be less wise than they ought to be presumed, if they do

and more valuable results. The increasing demands of the community may be here met; and our high places for education may easily accommodate themselves more wisely to the spirit and wants of the times in which we live. And this if done at all, must be done speedily; for new institutions are springing up, which, in the flexibility of their youth, will easily take the forms that are required of them, while the older establishments, if they suffer themselves to grow harder and harder in their ancient habits and systems, will find, when the period for more important alterations is come and free Universities are demanded and called forth, that, instead of being able to place themselves at the head of the coming changes and directing their course, they will only be the first victims of the spirit of improvement.

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not seek their own promotion. Thus parties would inevitably be organised, and a new set of interests and passions be introduced among the teachers, who must almost uniformly nominate from among their personal acquaintances, friends and associates in office. Under these circumstances, it cannot be supposed, that the selection would always be impartial or wise, or made always in the kindest and most conciliating temper.

When, however, the right of originating all laws and nominating to all offices of discipline and instruction, should be transferred to the teachers, nothing worth mentioning would remain to the corporation but the control and management of the funds. Even for this, however, they have been thought incompetent; for it has been proposed, in conjunction with the two preceding changes, to give them the further assistance of two of the resident officers, besides the President, by requiring that two of them should be elected regularly into the corporation. On the expediency of having teachers in the corporation, some remarks have been already made, so that it is only necessary now to add, that this last proposition taken in connexion with the two others, would give the *coup de grace* to the corporation, as an independent and responsible body. It may be even doubted, whether, after such an abdication of their powers, it would not be somewhat difficult to find gentlemen of respectability who would accept seats at a board, where their principal duty would be to receive the directions and record the decisions of the body of the teachers.

The whole of this proposition, it is plain, is but another form of the proposition in the memorial, to constitute the corporation entirely of teachers, since it, in effect, would transfer to the teachers, the powers now possessed by the corporation; and as the constituted authorities and public opinion have decided the first question with great formality and after much investigation; so, if the other should ever be as formally proposed, it would, no doubt, receive the same answer





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